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EXAMINER

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 20

Application Number: 09/442,106
Filing Date: November 17, 1999
Appellant(s): PETTITT, JOHN PHILIP

Christopher J. Palermo
For Appellant

EXAMINER'S ANSWER

Mr. Eric Stamber
Supervisor
Art. Unit 3622

This is in response to the appeal brief filed on 10/22/2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows: Issue number 1, "The Office Action Erred in Failing to Enter the Terminal Disclaimer" is no more an issue as the Terminal Disclaimer is entered. The

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attorney of the applicant was contacted and he provided us a copy of the power of attorney filed in favor of the signatory of the Terminal Disclaimer in the parent application 08/901,687 and pursuant to Rule 63 (d)(4) the same is applicable to the instant application.

(7) *Grouping of Claims*

The rejection of claims 17-30 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,988,497	Wallace	11-1999
5,819,226	Gopinathan et al.	10-1998

McCrea et al., " The Internal Report " prepared by CSIRO for the Australian Taxation Office as part of the ATO's Electronic Commerce Project, June 1997, extracted from google database on Internet on 10/18/2002, hereinafter, referred to as McCrea.

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Richardson ("Neural networks compared to statistical techniques", Computational Intelligence for Financial Engineering, 1997; Proceedings of the IEEE/IAFE 1997, 24-25 March 1997, New York City Conference), hereinafter referred to as Richardson.

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The grounds of rejection are reproduced below from the Final Office Action and are provided here for the convenience of both the Appellant and the Board of Patent Appeals:

Claim Rejections - 35 USC § 103

Note: The prior art rejection of claims 17-30 are reproduced from the earlier Office action and are to be viewed in the light of "Response to Arguments" presented above.

5 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5.1. Claims 17--26, and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace (US Patent 5,988,497) in view of McCrea et al., "The Internal Report" prepared by CSIRO for the Australian Taxation Office as part of the ATO's Electronic Commerce Project, June 1997, further in view of Gopinathan et al. (US Patent 5,819,226).

With regards to claims 17--26, and 28-30, Wallace teaches a method, system and a computer readable medium for detecting fraud in a transaction involving purchasing a product between a consumer and a merchant over the Internet (col.1, lines 5-40 and col.6, lines 6-17 ("transactions over a computer network, e.g., Internet").

Wallace teaches receiving from the merchant or a number of merchants, credit card and transaction information (s) identifying the consumer (s) and product (s) and verifying various information based upon automatic verification system (it is inherent to check the name, address of the bearer presenting a credit-card for any purchase transaction involving shipping a package as admitted in the application on page 5, lines 15-18), consistency, and history checks verifying

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the credit card information that determines whether a physical address specified in the transaction information is consistent with other physical addresses that have been specified in a database of records (At least see col. 2, lines 4-15, "... *The necessity of a second tier of validation.....numerous threshold criteria or conditions.....transaction amount, credit limit, frequency of use.....change in purchasing patterns(e.g., change in shipping address), geographical limitations, or the like.....validation is justified*", col.4, lines 32-49, "...*For example, prevention of a fraudulent transaction.....combination of threshold criteria (e.g., credit limit over \$5000....).....average charge is under \$100.....trigger second tier validation*", and col.5, line 40-col.7, line 23. Note: Wallace here teaches carrying out validation check which corresponds to detection the fraudulent transactions on threshold criteria or numerous conditions covering history and consistency. Wallace uses this fraud detection procedure to determine whether to use further stringent methods to prevent fraudulent transactions but in no way teaches against the claimed invention in the application.).

Wallace fails to teach use of an Internet address in the detection of fraud in a credit card transaction by verifying if the information about physical addresses associated with the internet addresses used in the transactions are consistent. However, McCrea teaches use of Internet addresses in verifying the physical address associated with the internet address (page 95-page 96, heading 3.2.2. 2 Identification at the IP level, "*IP numbers are the primary way of identifying computers engaged in Internet activities...IP numbers within Australia can be related to other legal entities.....*", page 112, 3.5.1.1 Identification Issues, "...*Most of the examples.....of tax compliance*", pages 159-161, C. Collecting information to assist with identification, "...*Recommendation 11....Webshop details ..include...IP number.....e-mail address for correspondence.....the computer containing the webshop.....the owner is an Australian resident.....Recommendation 14:...A record of the ranges of IP numbers of Australian based computers should be maintained....*". Note: Internet address detected in the Internet transactions is being used to verify if the physical address associated with the Internet address). In view of McCrea it would have been obvious to a person of an ordinary skill in the art at the time of the invention to modify Wallace to use Internet address in detecting the credit card fraud detection by verifying information about physical address associated with the Internet address used in the transaction. Doing so would provide an important parameter, another criteria, to detect the fraudulent credit-card transactions as suggested by Wallace (col.2, lines 4-15, "...*The necessity of a second tier of validation could be prompted by numerous threshold criteria of conditions. Examples of threshold criteria include transaction amount.....frequency of use, or the like, geographical limitations, or the like...These thresholds or conditions can be set by the service provider.....*". Note: Wallace keeps it open to determine the criteria to verify the credit card transaction for the second tier validation, if required and as suggested in McCrea, the criteria of verifying the consistency of the Internet address with a pre-defined physical address can be used.

Wallace/McCrea fails to teach creating and storing a fraud score value based on the verifying steps that provides the merchant with a quantifiable indication of whether the credit card transaction is fraudulent. However, Gopinathan, in the same field of endeavor, i.e., detection of credit card frauds discloses creating and storing a fraud score value based on the verifying steps that provides the merchant with a quantifiable indication of whether the credit card transaction is fraudulent (col.3, line 66-col.4, line 20, "...*Referring now also to FIGS.2.....System monitor 201 shows a cutoff score 202.....the number of accounts with scores above the cutoff 203, and the fraud score 204.....FIG.3.....FIG.4..fraud score 403....*"). In view of Gopinathan, it would have been obvious to a person of an ordinary skill in the art at the time of the invention to modify Wallace/McCrea to include the feature of creating and storing a fraud

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score value based on the verifying steps that provides the merchant with a quantifiable indication of whether the credit card transaction is fraudulent. Doing so would help the merchants to estimate a probability of fraud for each transaction, as suggested in Gopinathan (col.2, lines 27-34, "*.....In accordance.....there is provided...detecting fraudulent transactions.....to estimate the probability of fraud for each transaction*")

Wallace/McCrea/Gopinathan teaches that in neural networks the strength of parameters, in estimating probability of fraudulent credit card transactions, is represented by weights. However, Wallace/McCrea/Gopinathan does not teach that the weights are determined by merchants according to the importance of each verifying step in the credit card transaction. Official Notice is taken of both the concept and benefits to accord weights to various parameters, and weights being determined based upon the importance assigned to each parameter as per ones own discretion, to arrive at a final score/total to evaluate a performance. For example, it is well known that teachers assign different weights to quizzes, home assignments, class-work, and tests while evaluating the performance and to award a final and cumulative grade to the student. Therefore, it would have been obvious to a person of an ordinary skill in the art at the time of the invention to modify Wallace/McCrea/Gopinathan to include the feature of letting merchants determine the weights according to the importance of each verifying step. Doing so would help the merchants to represent the strengths of verifying steps, used in determining fraudulent credit card transactions, by weights as per their discretion, as suggested above in the example of teachers estimating the final grade of a student.

6. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace/McCrea/ Gopinathan and further in view of Richardson, R, "...Neural networks compared to statistical techniques ", Computational Intelligence for Financial Engineering (CIFER), 1997., Proceedings of the IEEE/IAFE 1997, pages 85-89, 24-25 March 1997, New York City.

With regards to claim 27, Wallace/ McCrea/ Gopinathan teaches a method for detecting fraud in credit card transaction between a consumer and a merchant over the Internet as disclosed in claim 24 above. Wallace/ McCrea/ Gopinathan fails to teach constructing a map of credit card transactions and use of them. However, Richardson teaches constructing a map of credit card transactions and use of them (entire article. See Figures 2.3, 2.4, 2.5, 2.6 and 3.1. In view of Richardson, it would have been obvious to a person of an ordinary skill in the art at the time of the invention to recognize the importance and benefits of constructing maps based upon transactions and using them and combine this feature with Wallace/ McCrea/ Gopinathan. Doing so would help to discriminate between normal account activity and fraudulent credit card transactions as suggested by Richardson (pg.90, under paragraph 2.3 Statistical Techniques, "... The process.....fraudulent transactions").

(11) Response to Argument

1. The Appellant's first issue under the head " ARGUMENT" is: "The Office Action Erred in Failing to Enter the Terminal Disclaimer" is no more an issue as the Terminal

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Disclaimer is entered for reasons given above. With the acceptance of Terminal Disclaimer and entering the same in the file the rejection of claims 17-30 based on the non-statutory, judicially created doctrine of obviousness-type double patenting is withdrawn.

2. The Appellant's second issue under the head " ARGUMENT" is: "The Office Action Erred in Rejecting Claims 17-26 and 28-30 Under 35 U.S.C. 103 (a) over Wallace in view of McCrea et al. and Gopinathan et al ".

With respect to claim 17, the Appellant remarks that a prima facie case of obviousness has not been established based on the references of record for reasons presented thereafter on pages 6 –10 of the brief. The Examiner does not agree for the reasons given below:

Claim 17 is directed to a method for detecting fraud in a purchase transaction between a consumer and a merchant wherein the consumer uses a credit card. The Appellant's method verifies the credit card information to several historical references associated with the same credit card information stored in a database, to determine if the credit card transaction is fraudulent. Wallace's invention and disclosure are directed to the same cause of detecting and reducing potential fraud in credit card transaction (see at least col.1, lines 7-10 and col.1, lines 53-62. Wallace also uses historical data i.e. numerous threshold criteria or conditions to verify the authenticity of the credit card transaction (see at least col.2, lines 4-16). Wallace's disclosure includes verifying the consistency of the credit card information with historical information associated with the

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same credit card information. **As per Wallace, the historical data used to verify the consistency of the credit card information includes changes in purchasing patterns including change in shipping address, geographical limitations, or the like (see at least Wallace, col.2, lines 4-15). Note: changes in patterns of the shipping address and geographical limitations correspond to checking the consistency of the physical addresses of the user with respect to the credit card information.** This is evident from the fact that the Appellant has not submitted any arguments against the rejection of the following limitations recited in the claim 17:

“receiving, from the merchant, transaction information that identifies the consumer and the product, including an Internet address of the consumer;

receiving, from the merchant, credit card information associated with the consumer that identifies the credit card to be used in the transaction;

verifying the credit card information based upon a consistency check that determines whether the credit card information matches the consumer;

verifying the credit card information based upon a history check that determines whether the credit card information is consistent with the transaction information;

verifying the credit card information based upon an automatic verification system;

“

Wallace clearly anticipates the above limitations as analyzed on pages 8-9 of the final action.

With respect to the limitation of the claim 17, “Verifying the credit card information based upon an Internet identification system that determines whether a physical

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address specified in the transaction information is consistent with other physical addresses that have been specified in a database of records of other transaction information for other transactions that are associated with the Internet address of the customer “, it is already analyzed above that Wallace teaches determining the consistency of the credit card information with the data on physical addresses in the environment of computer ordering on Internet(see at least col.2, lines 4-15, “....*Examples of conditions include changes in purchasing patterns (e.g., changes in shipping address), geographical limitations ...*” corresponds to noting and comparing the credit card information with the changing patterns of the physical addresses. For computer ordering over Internet see col.6, lines 9-17, “...*In various embodiments, the card holder is automatically prompted by a voice response unit (VRU) for computer ordering or calling card use, by an automated teller machine (ATM) for ATM withdrawals, by a computer program when conducting monetary transactions over a computer network (e.g, Internet), etc. In each case, a number can be easily entered on all current authentication devices (e.g., phone key pad, computer key board, etc.) that require input of a transaction amount*”).

The Examiner acknowledged on page 9 of the final action, that Wallace fails to disclose the use of the relationship of the Internet address associated with the physical address(es) for detecting fraud in credit card transaction. The concept of checking consistency of the physical addresses with respect to credit card information is already disclosed as a prior art in Wallace. The fact that Wallace's invention is used in the environment of computer ordering on Internet makes it obvious/inherent the use of

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Internet address/system in Wallace while communicating transactions between the user and the server/supplier. Wallace fails to disclose the " use of the relationship between Internet address and the physical address of the user in determining the consistency of the physical addresses being used with the same Internet address as is being done for the rest of the credit card information already disclosed in Wallace. However, McCrea discloses the use of an IP address/Internet identification system to determine the physical address of a computer as disclosed in the final action and also acknowledged by the Appellant on page 6 of the brief. It would be obvious to a person of an ordinary skill in the art to have modified Wallace to combine McCrea's teachings to be able to establish a relationship between the IP address and the physical address of the user while computer ordering on Internet. Doing so would provide an important criterion in Wallace system to determine, whenever an Internet transaction is taking place, to determine the physical address of the computer of the user and further determine, as disclosed in Wallace, to check the change in patterns of the geographical locations/limits to validate credit card transactions or determine if the transaction is fraudulent.

The Examiner observes that the Appellant's arguments , " McCrea is a report for the Australian Taxation Office.....The apparent purpose of the described process is for determining whether online purchases by the host could be subject to Australian sales tax. There is no suggestion to apply McCrea in the field of fraud detection....." (see pages 6-7 of the appeal brief) are directed to the individual reference of McCrea. In response to applicant's arguments against the references individually, one cannot show

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nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As analyzed above the subject limitation is unpatentable over Wallace in view of McCrea.

The Appellant further argues on page 8, lines 1-4 of the brief that " Relying on analogy is legally insufficient to support a 103 rejection ". In response to applicant's argument that McCrea's art is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, McCrea uses the Internet address to solve a problem of verifying the geographical location of an user of that Internet address which is analogous to the limitation recited in claim 17, that is, using the information of Internet address used by the consumer in his transactions to resolve the problem of verifying if the physical addresses used in association with that Internet address are consistent.

The Appellant also alleges on pages 8-10 the " use of three different references", "hindsight" reasoning in rejecting the claim 17 as unpatentable over Wallace in view of McCrea and further in view of Gopinathan and also of failing to suggest a combination of the teachings of Wallace, McCrea and Gopinathan. With due respect, the Examiner disagrees for the following reasons:

In response to applicant's argument that there is no suggestion to combine

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the references, " The complex process recited in Claim 17 should not stand rejected as obvious at the time of invention based on a convoluted combination of disparate references ", see page 9, line 23-page 10, line 2 of the brief and that " The Action attempts to stitch together features from three different references using the claim as instruction manual to find prior art that allegedly renders Claim 17 obvious, thereby impermissibly applying hindsight " (see page 8, lines 5-8), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the teachings of Wallace and Gopinathan are in the same endeavor of verifying/analyzing fraudulent credit card transactions and have been combined with the teachings of McCrea to solve an analogous problem of using an Internet address to verify a correlation of the Internet address with a geographical address as stated in the above analysis and in the final office action. Also see *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991) which justifies reliance on a large number of references in a rejection as a large number of references do not weigh against the obviousness of the claimed invention.

In response to applicant's argument that that there is no obviousness or motivation to combine the teachings of McCrea with Wallace and Gopinathan, the test for obviousness is not whether the features of a secondary reference may be bodily

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incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). From the above analysis and discussion for claim 17, it is clear that all the knowledge, facts and figures were used from prior art references of Wallace, McCrea and Gopinathan to reject the claim 17 as obvious over Wallace in view of McCrea and Gopinathan.

With regards to claim 21, the Appellant has argued, see page 10, line 16-page 11, line 23, that the Official Notice taken to reject the limitation, "*weighting each of the verifying steps according to an importance as determined by the merchants of each verifying step to the credit card transaction*" is not capable of instant and unquestionable determination, as required by Official Notice, and is an insufficient basis

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for the rejection of claim 21 and the rejection should be reversed. With due respect, the Examiner do not find the arguments persuasive for the following reasons:

(i) The Appellant has not demanded any documentary evidence against the use of Official Notice which clearly implies the admittance of the Official Notice as an admitted Prior Art. See MPEP 2144.03[R-1]- Reliance on Common Knowledge the art or "Well-Known" Prior Art. C. To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR1.111(b). See also Chevenard, 139 F.2d at 713, 60 USPQ at 241 (***"[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."***). ***A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate.***

(ii) The Appellant's argument that, " the subject matter of the Official notice is not capable of "instant and unquestionable determination, as required for Official Notice...." is not relevant because the use of phrase "instant and unquestionable determination" is incorrectly used. Instead, It should be " instant and unquestionable demonstration ". See See MPEP 2144.03[R-1]- Reliance on Common Knowledge the art or "Well-Known" Prior Art. A. Determine When It Is Appropriate To Take Official Notice Without Documentary Evidence To Support The Examiner' s Conclusion
.....Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common

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knowledge in the art are capable of instant and **unquestionable demonstration** as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute" (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)). In *Ahlert*, the court held that the Board properly took judicial notice that "it is old to adjust intensity of a flame in accordance with the heat requirement." See also *In re Fox*, 471 F.2d 1405, 1407, 176 USPQ 340, 341 (CCPA 1973) (the court took "judicial notice of the fact that tape recorders commonly erase tape automatically when new audio information' is recorded on a tape which already has a recording on it"). In appropriate circumstances, it might not be unreasonable to take official notice of the fact that it is desirable to make something faster, cheaper, better, or stronger without the specific support of documentary evidence.

(iii) The subject matter of the Official Notice used in rejection of claim 21 are both old and well-known and also capable of instant and unquestionable demonstration. Teachers in schools assign different weights to quizzes, home work, class-work, tests and other evaluating factors to determine the final and cumulative grade of the student. It is a well known practice that teachers may give more weight to a test than a quiz or a lab work or vice-versa in calculating the final grade of the student.

(iv) The subject matter of the Official notice is also an analogous approach to resolve a particular problem of transforming the importance of steps into absolute figures by assigning them different weights as per their importance. The terms "verifying

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steps", "credit card transaction", and merchant" in claim 21 correspond to "quizzes, home work, class-work, tests and other evaluating factors", " student's yearly/term performance/grade" and "teacher" respectively. Weights are assigned to various evaluating factors such as quizzes, home work, class-work, tests according to the importance determined by the teacher and thus it provides the same solution to a problem as claimed in the invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992) It has been held that a prior art reference, in this case Official Notice, must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

For the above reasons, it is believed that the rejection of claims 17-21 should be sustained, as claims 18-23 depend directly or indirectly from claim 17. Since the features of claims 24-27 are already covered in the claims 17-23 the rejection of claims 24-27 should also be sustained.

3. The Examiner observes that the Appellant argues, on pages 12-14 of the appeal brief, its third issue as "The Office Action Erred in Rejecting Claims 17-26 and 28-30 Under 35 U.S.C. 103 (a) over Wallace in view of McCrea et al. and Gopinathan et al and Richardson". This is incorrect as it does not match with the third issue stated under the head "ISSUES" on page 4 of the appeal brief. The third issue to be argued is "Whether the Office Action properly rejected claim 27 under 35 U.S.C. 103 (a) over

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Wallace/McCrea/Gopinathan and further in view of Richardson. The Examiner's response is directed to this issue only and the arguments presented by the Appellant, on page 12, line 15-page 13, line 14.

The applicant's arguments are directed to the individual reference of Richardson instead of the combination of references Wallace/McCrea/Gopinathan/ Richardson used in the rejection of claim 27 in the earlier Office action. In response to applicant's arguments against the references individually, that is Richardson does not teach the feature of using a specific Internet address, cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Wallace/McCrea/Gopinathan/ teach use of Internet address in verifying the credit card information in claim 24, as demonstrated above and in the final office action.

Claim 27 is dependent on claim 24 and further limits the limitation, "creating and storing a fraud score value based on the verifying steps that provides the merchant with a quantifiable indication of whether the credit card transaction is fraudulent" of claim 24. The verifying steps are based upon a consistency check, a history check, automatic verification system and use of Internet address in the Internet verification system. Thus the use of Internet address in the verifying steps of credit card transactions is already included and analyzed in claim 24 (also claim 17) which are already disclosed and analyzed above as being unpatentable over Wallace/McCrea/Gopinathan.

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The Examiner acknowledged on page 12 of the final action that Wallace/McCrea/Gopinathan does not disclose constructing a map of credit transactions based. However, Richardson teaches constructing maps of credit card transactions and therefore it was suggested in the final action to modify Wallace/McCrea/Gopinathan to combine Richardson's concept of constructing maps of credit card transactions because it would help to discriminate between normal account activity and fraudulent credit card transactions as suggested in Richardson (pg.90, under paragraphs 2.3. Statistical Techniques).

The step of constructing a map will be performed regardless of the fact if the other transactions are related to the verifying steps based upon a consistency check, a history check, automatic verification system and use of Internet address in the Internet verification system as these factors are not functionally involved in the constructing of the maps. The subject matter which is functionally involved is the fraud score value as recited in the steps of creating and storing. Thus the verifying steps based upon a consistency check, a history check, automatic verification system and use of Internet address in the Internet verification system, correspond to a non-functional descriptive material which will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

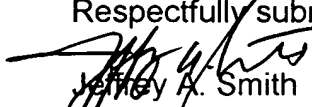
With regards to the arguments of the Appellant, see page 13, lines 15-18, concerning system claims 28, 29 of which the features are similar to the method claim 17, are analyzed on the basis of same rational as given above for claim 17.

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With regards to the arguments of the Appellant, see page 13, line 19-page 14, line 4, concerning claim 30 of which the features are similar to the method claim 17, are analyzed on the basis of same rationale as given above for claim 17.

For the above reasons, it is believed that the rejection of claims 17-30 should be sustained.

Respectfully submitted,


Jeffrey A. Smith
Primary Examiner
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November 28, 2003

Conferees:



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